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U.S. Patent & TMO/TM Mail Rcpt Dt. #73

Office of Opposition
Serial No. 76/380073
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Serial No. 76/380073
Mark: E-FORCE
Published: May 27, 2003

EF COMPOSITE TECHNOLOGIES LP,

Opposer,

v.

PURSUIT MARKETING, INC.,

Applicant.

Opposition No. _____

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NOTICE OF OPPOSITION

Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3514

Ma'am:

EF COMPOSITE TECHNOLOGIES LP, a California limited partnership, located at 7920 Arjons Drive, Suite A, San Diego California 92126 (hereinafter "Opposer"), believes that it will be damaged by the registration of the mark shown in Application Serial No. 76/380073 (the '073 application), filed March 8, 2002, by Pursuit Marketing, Inc. (hereinafter "Applicant"), published on May 27, 2003, on the grounds that registration of such mark is likely to cause confusion or mistake, or to deceive consumers regarding the source, origin, sponsorship or

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affiliation of the parties' respective goods in light of Opposer's prior adoption and use of the mark E-FORCE, and hereby opposes the registration of such mark.

The grounds for the opposition are as follows:

1. Opposer is a manufacturer of racquetball racquets, strings, grips and accessories, such as sports bags, gloves, hand wraps and goggles (collectively "Opposer's Goods").
2. Since at least as early as 1989, the predecessor in interest of Opposer and then Opposer has continually used the trademark E-FORCE in commerce in connection with Opposer's Goods and has extensively advertised and promoted its E-FORCE mark in connection with Opposer's Goods through both conventional advertisements and an Internet website.
3. Opposer's Goods are sold under the E-FORCE mark have been sold in general sporting goods stores, specialized sporting goods stores and racquetball clubs.
4. As a result of the quality of the Opposer's Goods and the widespread use and promotion of such goods under the E-FORCE mark, the E-FORCE mark has become a symbol of Opposer, Opposer's Goods, and Opposer's good will.
5. Opposer is the owner of record of U.S. Trademark Application No. 76/453469 for the mark E-FORCE, covering the Opposer's Goods.
6. On information and belief, Applicant is an Illinois corporation primarily engaged in the sale and distribution of paintball guns, paintballs, paintball gun barrels, paintball gun

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expansion chambers, non-telescopic paintball gun sights, paintball gun barrel plugs, and paintball filler adapters (collectively "Applicant's Goods").

7. On information and belief, Applicant's Goods are sold in general sporting goods stores, specialized sporting goods stores, and at paintball ranges and facilities.

8. On information and belief, Applicant has promoted its E-FORCE mark in connection with Applicant's Goods through both conventional advertisements and an Internet website.

9. Applicant is listed as the owner of record of the '073 Application for the mark E-FORCE, covering the Applicant's Goods.

10. The '073 Application was filed on March 8, 2002 on the basis of an Intent to Use, under Section 1(b) of the Lanham Act, 15 U.S.C. §1051(b).

11. Opposer's first use of the mark E-FORCE predates Applicant's filing date by over twelve (12) years.

12. On information and belief, Opposer's first use of the mark E-FORCE in commerce predates any actual use of E-FORCE by Applicant in commerce.

13. Opposer's Goods and Applicant's Goods, both bearing the mark E-FORCE, are currently offered for sale in one or more of the same general sporting goods stores.

14. On information and belief, Opposer's Goods and Applicant's Goods, sold under the parties respective E-FORCE marks, have appeared in the same third-party advertisements.

15. The grant of registration to Applicant for its E-FORCE mark as sought in the '073 Application should be denied on the grounds of Opposer's prior use of the E-FORCE mark. The mark sought to be registered by Applicant is confusingly similar to Opposer's E-FORCE mark, and the continued use of the E-FORCE mark by the Applicant is likely to cause confusion or mistake in the minds of the public and prospective purchasers. The relevant segment of the public is likely to believe that Applicant's Goods are those of the Opposer, or are endorsed, sponsored or otherwise affiliated or connected with Opposer, or that Opposer's Goods are associated with Applicant, particularly in light of the overlap in trade channels, all to the damage and injury of the purchasing public and to the damage and injury of the Opposer.

16. The grant of registration to Applicant for its E-FORCE mark as sought in the '073 Application should be denied on the grounds of dilution by tarnishment of Opposer's E-FORCE mark through Applicant's use of E-FORCE with paintball guns a result of a large percentage of the purchasing public view firearms, and firearms like devices, with distaste or apprehension.

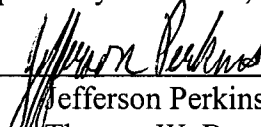
WHEREFORE, Opposer files this Notice of Opposition and prays that the aforesaid application of Applicant Pursuit Marketing, Inc. herein opposed, be rejected; that no registration be issued thereon to Applicant; and for such other relief as the Board deems just and proper.

Please charge the filing fee of \$300.00 for this opposition or any additional fees to Deposit Account No. 18-2284. Any overpayments may be credited to the same. Copies of the Notice of Opposition are provided herein in duplicate.

Please address all correspondence regarding this opposition to:

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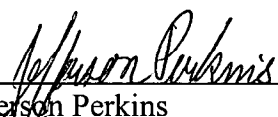
Respectfully submitted,

By: 
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Attorneys for Opposer

Dated: 19 August 2003

CERTIFICATE OF MAILING

I, one of the attorneys for the Opposer, hereby certify that this correspondence, provided in duplicate, is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514 on 8/19, 2003.


Jefferson Perkins
One of the Attorneys for Opposer
Dated: 19 Aug 2003